

# Montana Environmental Quality Council

June 26

# 2019

*The EQC typically tackles a broad array of topics over an interim and always meets the mandated deadline to finish its work. This success is rooted in the thoughtful consideration members give to planning the interim workload. The draft work plan is integral to meeting the EQC goals.*

Draft  
Work Plan  
for the  
2019-20  
Interim

DRAFT

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## Introduction

This is the draft work plan for the Environmental Quality Council (EQC or Council) for the 2019-2020 interim. This document includes:

- An explanation of how the EQC plans its work.
- Instructions for using the draft work plan to make decisions about the final work plan.
- A description of potential work plan topics and options for addressing those topics.
- A draft timeline.

Copies of the assigned study resolutions and the draft EQC Work Plan Decision Matrix are attached.

## How the EQC Plans its Work

The EQC has a strong tradition of handling large workloads within its allotted budgets for staff time and money and completing its work prior to the September 15 deadline in the even numbered year.

During the legislative interim, the EQC typically focuses on one or more major study topics, while also maintaining oversight of programs and rulemaking activities of the Montana Department of Natural Resources and Conservation (DNRC); the Montana Department of Environmental Quality (DEQ); and the Montana Department of Fish, Wildlife, and Parks (DFWP). For water issues, the Water Policy Interim Committee provides oversight within those departments.

The draft work plan helps Council members set priorities. Once the draft work plan is adopted, staff develops work plans and timetables for each major task. A draft timeline of the Council's work is presented at the end of this document.

In planning its work, the EQC considers studies requested by legislators through study

### Agencies overseen by the EQC

Department of Environmental Quality

Department of Natural Resources and Conservation

Department of Fish, Wildlife, and Parks

## WHAT THE EQC DOES

Conducts interim studies

Monitors agencies;  
program evaluations

Reviews administrative  
rules

Reviews councils,  
reports

Determines issues to  
examine

Proposes and reviews  
legislation

resolutions, study bills, statutory mandates, and member issues. The study resolutions are ranked by the legislators and assigned to interim committees by the Legislative Council.

## The Draft Decision Matrix

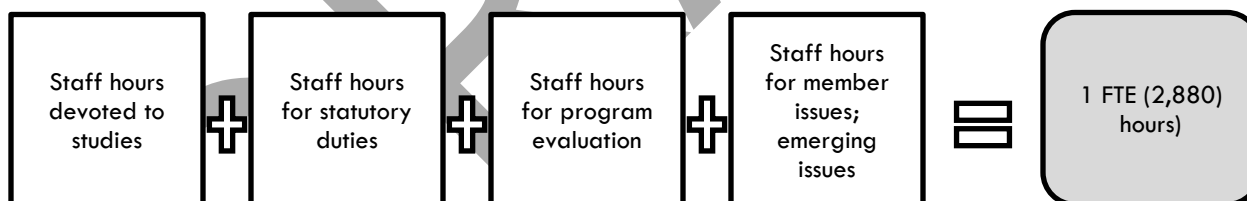
The draft EQC Work Plan Decision Matrix is a way to look at topic options and estimate staff time needed for each option. The matrix includes estimates for total staff time available to the EQC but many topics also require meeting time for updates, panel discussions, and EQC debate. Most EQC meetings span two days.

### Studies assigned to the EQC

HJ38—RANKED 6TH	Study bonding, decommissioning, & remediation for energy facilities
SJ20—RANKED 7TH	Study federal Wilderness Study Areas
SJ30—RANKED 26 <sup>TH</sup>	Study dissemination of fish and wildlife data

## Resource Allocation

There is approximately **1 FTE of staff time (2,880 work hours)** available to conduct the work assigned to the EQC and the additional work the EQC votes to undertake. These priorities – and the amount of staff hours devoted to a specific topic – are determined by the Council using the Work Plan Decision Matrix, which accompanies this document. As you read the work plan documents, please bear in mind the basic equation:



## Potential Work Plan Topics

### Study Resolutions assigned to the EQC by Legislative Council

#### 1. [HJ 38](#) Study bonding, decommissioning, and remediation for energy facilities

**Legislative Poll Ranking:** 6<sup>th</sup>

**Background:** The study calls for an examination of existing state laws related to bonding, decommissioning, and reclamation for energy generation facilities in Montana. The study will also review risks to ground water, surface water, land contamination, and on-site reclamation.

**Study approach:**

- gather, analyze, and assess Montana statute and administrative rules related to bonding, decommissioning, and reclamation for energy generation facilities in Montana
- solicit and consider comments, concerns, and suggestions from all interested stakeholder groups
- identify and analyze relevant policy and logistical issues and options

**Estimated staff time:** Staff time could range from .1 FTE (288 hours) to .15 FTE (432 hours).

**Estimated EQC meeting time:** At a minimum, this would be an agenda item of at least an hour at two meetings. At most, it would be an agenda item at every meeting.

#### 2. [SJ 20](#) – Study federal Wilderness Study Areas

**Legislative Poll Ranking:** 7<sup>th</sup>

**Background:** The Montana Wilderness Study Act designated almost 663,000 acres of federal land in 1977 to be reviewed for preservation potential, but Congress and presidents have yet to act on disposition of those lands. The resolution notes there is legal uncertainty over how wilderness study areas affect forest management, road construction, grazing, motorized recreation, weed management, timber harvesting, and local communities.

**Study approach:**

- provide an overview and history of wilderness study areas, including policy history and management
- examine current and past efforts of stakeholder interest groups and provide a new forum for stakeholders to formulate options for Congress to address disposition of wilderness study lands

**Estimated staff time:** Aspects of study depend on significant involvement from the Forest Service and BLM as well as a cross section of stakeholder groups. Staff time also depends on how much research the EQC desires on individual study areas and issues specific to those areas. Staff time could range from .05 FTE (144 hours) to .3 FTE (864 hours).

**Estimated EQC meeting time:** At a minimum, this would be an agenda item of at least an hour at two meetings. At most, it would be an agenda item at every meeting.

### 3. [SJ 30](#) – Study dissemination of fish and wildlife location data

**Legislative Poll Ranking:** 26th

**Background:** Debates during the 66th Legislature raised issues concerning the dissemination of location data for fish and wildlife. The study calls for research and debate into whether or how the state should protect fish and wildlife location data, including den and nest sites, spawning locations, congregation areas, courtship display grounds, and harvest locations.

**Study approach:** The study could include a review of the following:

- examine current Montana laws and policy that may relate to disseminating fish and wildlife data as well as requests for the data
- compare laws and policies in other states
- engage stakeholders through panel discussions

**Estimated staff time:**

Staff time could range from .05 FTE (144 hours) to .2 FTE (576 hours).

**Estimated EQC meeting time:** At a minimum, this would be an agenda item of at least an hour at two meetings. At most, it would be an agenda item at every meeting.

#### Other Issues Proposed for EQC Study

As determined by Council

#### Possible EQC agenda items through the interim

These topics could be addressed through an agenda item at one or more meetings with a minimum of staff time. However, the EQC could also choose to devote more staff time or meeting time to any of the items.

#### EQC Agency Oversight Duties

Under the Montana Environmental Policy Act, the EQC has broad statutory oversight authority it uses to review agencies. The Council oversees the DEQ, DNRC, and DFWP as well as entities attached to those agencies. The oversight includes reviewing draft legislation, rule review, and program evaluation.

The Council has the authority to request records; make recommendations for adoption, amendment, or rejection of a rule; institute, intervene in, or otherwise participate in rulemaking proceedings; review the conduct of administrative proceedings; request a legislative poll; request an economic impact statement on a rule; or object to violation of authority for a rule.

At the request of a council member, the Council reviews statutorily established advisory councils and required reports of their assigned agencies and to make recommendations regarding the retention or elimination of those advisory councils and required reports. [5-5-215, MCA](#)

Traditionally, the EQC has one or more agency oversight issues on the agenda for each meeting. The Council allocates time in the workplan for agency oversight and emerging issues.

## EQC Statutory Duties

The Legislature directs the Council to play a role in specific programs or activities of state government. These directives are in addition to the more general oversight authorities for environmental programs and policies. While the general authority is arguably sufficient to address specific programs and policies, the Legislature directs the EQC to act as its liaison with the executive branch, particularly for new environmental programs or policies.

**2-15-1514, MCA,** requires the participation of a Legislative Services Division employee on the natural resource data system advisory committee. This is assigned to the EQC staff on an as needed basis.

**2-15-1523, MCA,** requires the participation of a representative of the Legislative Services Division on the Groundwater Assessment Steering Committee. This is assigned to the EQC staff on an as needed basis.

**75-1-201 and 75-1-208, MCA,** state executive agencies are required to submit copies of environmental review documents prepared in accordance with the Montana Environmental Policy Act (MEPA) to the EQC. A project sponsor may appear before the EQC at a regularly scheduled meeting to discuss issues regarding an executive agency's environmental review of the project.

**75-1-314, MCA,** states the Departments of Environmental Quality, Agriculture, and Natural Resources and Conservation are required to report specific compliance and enforcement information to the EQC on a biennial basis. This is the result of a 1997 EQC interim study.

**75-10-111, MCA,** requires the DEQ to circulate solid waste management and resource recovery plans to the EQC for its review.

**75-10-601, MCA,** requires the Libby Asbestos Oversight Committee to submit report by July 1 of each year.

**75-10-743, MCA,** requires DEQ to report to the EQC before July 1 of each year regarding expenditures made and locations of facilities using orphan share funds for remedial action.

**76-22-118, MCA,** requires the Montana Sage Grouse Oversight Team to report annually to the EQC on activities, including but not limited to money and real property received, grants awarded, compensatory mitigation activities, and staffing needs.

**77-1-801, MCA,** requires the DNRC to report to the EQC on road closures and restrictions on state lands on or before September 1 of each year preceding a regular session.

**77-2-366, MCA,** requires that the DNRC submit a detailed report of the land banking program to the EQC by July 1 of even-numbered years. The DNRC must also provide a summary report to the EQC on or before July 1 of each year on sales of state land cabins or home sites.



**77-5-301 et. seq., MCA**, is the Streamside Management Zone law. The statement of intent for the enabling legislation requires the DNRC to periodically evaluate and report on the implementation of the act to the EQC.

**80-7-1006, MCA**, requires the Department of Agriculture, FWP, DNRC, and MDT report at least biannually on their activities undertaken and expenditures incurred related to implementation of the aquatic invasive species laws.

**80-7-1026 and 80-7-1203, MCA** require the Invasive Species Council and the Upper Columbia Conservation Commission report their activities annually;

**82-2-701, MCA**, requires the Montana Bureau of Mines and Geology to report to the EQC and the Local Government Interim Committee on its investigation of the state's sand and gravel deposits within one year of starting its investigations.

**87-1-201, MCA**, requires the DFWP to report current sage grouse population numbers, including the number of leks and seasonal and historic population data to the EQC.

**87-1-901, MCA**, establishes that the DFWP must report annually to the EQC on gray wolf management and conservation, including the tracking, hunting, trapping, and taking of gray wolves.

**87-2-702, MCA** requires the FWP report specific information about mountain sheep harvested from the Tendoy Mountain herd by September 1 of each even-numbered year.

**87-5-807, MCA** requires the FWP report on implementation of the Wildlife Habitat Improvement Act before September 1 of each year preceding a regular session.

**HB 596, 2019**, requires the Department of Administration to report until September 1, 2020 on a quarterly basis to the EQC about the progress of the state labs advisory committee.

## EQC Educational Publications

The EQC uses its broad statutory authority to produce high quality, easy to understand, objective, nonpartisan, educational publications in addition to the study reports produced during the interim. These educational publications are well regarded and are constantly requested by the public, legislators, state and federal agencies, other states, and industry and conservation groups. Several EQC publications have received national awards.

Law requires an EQC publication on eminent domain and another on split estates be included in proceedings related to those issues. EQC publications are regularly recognized nationally.

The publications need periodic updating in response to changes in laws and rules. Sometimes the updates require minimal time and effort, others are more intensive.

☆ *Montana Index of Environmental Permits (produced in 1976 and updated regularly)*

The [EQC Permit Index](#) is a complete guide to the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies, and the statutes and rules that regulate each permit. The Permit Index is the EQC's longest-standing ongoing publication.

☆ [Our Montana Environment: Where Do We Stand?](#) (produced in 1996)

The EQC conducted its first comprehensive environmental indicators project in 1975. With the production of this publication 20 years later, the EQC revisited that effort to develop indicators to document changes in the state's environment over time. In 2013, the EQC directed staff to create an online repository for trend information. That effort started in 2014 and is continuing. In 2017, the EQC devoted significant time and resources to developing indicators related to fire.

☆ [A Guide to the Montana Environmental Policy Act](#) (produced in 1998 and updated as needed)

The EQC was created by the Montana Environmental Policy Act (MEPA) in 1971. The EQC has historically been very active in MEPA implementation and oversight and in developing policy related to MEPA. This guide was produced by the EQC at the request of Montana citizens, legislators, agencies, and industry and conservation groups in order to provide an easy to understand reference guide on MEPA.

☆ *Eminent Domain in Montana (produced in 2001 and updated as needed)*

This [handbook](#) was one of several products that the EQC produced as a result of its 1999-2001 interim study on eminent domain in Montana. This handbook was developed in order to help citizens better understand the state's eminent domain laws.

☆ [An informational Guide to State Debt](#) (produced in 2004)

At the request of the 2003-04 EQC Energy Policy Subcommittee, the State Bond Counsel compiled the information for this brochure to assist those with projects utilizing state bonding mechanisms. The brochure defines state debt, describes bonds, describes the types of state debt, and provides other related information.

☆ [A Guide to Split Estates in Oil and Gas Development](#) (*produced in 2006 and updated as needed*)

This guide was produced in 2006 at the request of an EQC subcommittee that studied split estate issues. In 2007, EQC-approved legislation was signed into law requiring that the most current version of this brochure be provided to surface owners prior to oil and gas exploration and drilling.

☆ *Conservation easements: 20 things everyone should know* (*produced in 2008 and updated as needed*)

This [brochure](#) was first produced as part of a study of conservation easements on state land. It provides basic information about conservation easements.

☆ [Permitting in Montana, DEQ](#): (*produced in 2009 and updated in 2012*)  
[Permitting in Montana, DNRC](#): (*produced in 2012*)

These reference guides provide a quick overview of six permitting processes that affect different types of projects ranging from power plants to gravel pits to oil and gas drilling and groundwater use. These guides include a series of flowcharts and summaries outlining the responsibilities of the applicant, the regulatory agencies, and the public within various permit processes in order to assist people in planning for a permitting process.

☆ [Pittman-Robertson Funding](#) (*produced in 2014*)  
[Dingell-Johnson Funding](#) (*produced in 2014*)

These reference guides summarize two federal excise taxes, one on firearms and other hunting equipment and one on sport fishing equipment. The brochures explain how the money is collected, how it is disbursed to the states, and how it may be used.

## Draft 2019-2020 Work Plan Timeline

[Note: This is a timeline for the EQC studies and other duties. It is subject to final approval of the EQC meeting dates. The timeline shows the last date for completion of certain items.]

June 26-27, 2019	Sept. 25-26	Jan. 15-16, 2020	March 25-26	May 27-28	July 29-30	September 9-10, 2020
Draft work plan	Finalize work plan	Revise work plan, as necessary				
Begin statutory duties	Continue statutory duties					
Consider study resolutions	Begin studies	Gather background	Identify options	Draft report; request public comment	Consider draft findings, recommendations; revise report; request public comment	Finalize findings, recommendations, and report
Prioritize member topics	Explore member topics					
				Propose draft legislation	Review draft legislation	Review EQC legislation for preintroduction
						Review agency legislation for preintroduction

**Council interim work must be completed September 15, 2020.**